

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Stoney Thompson,

Case No. 3:13-cv-00529

Plaintiff

v.

ORDER

Ed Shelton,

Defendant

Before me is the Report and Recommendation of Magistrate Judge Nancy Vecchiarelli, filed on December 17, 2013, recommending dismissal without prejudice of Petitioner Stoney Thompson's action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Magistrate Judge Vecchiarelli further recommends that the statute of limitations period be equitably tolled while Thompson presents his actual innocence claim to the state courts. Respondent Warden Ed Shelton did not file an objection to the Magistrate Judge's proposed resolution.

Following review of the Magistrate Judge's Report and Recommendation, as well as the parties' arguments, I adopt the Magistrate Judge's proposal. Thompson's petition for a writ of habeas corpus, under 28 U.S.C. § 2254, is dismissed without prejudice, and the statute of limitations period shall be prospectively tolled while he pursues his claims in state court. Thompson shall return to state court within 30 days of this order. He then may renew or refile his habeas petition in this court within 30 days of exhausting his state court remedies. If Thompson fails to comply with

these time limitations, he may not be entitled to the application of prospective equitable tolling and his habeas petition may become barred by the statute of limitations. *See* 28 U.S.C. § 2244(d).

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge